

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

WILLIAM O. RIVES, III

PLAINTIFF

VS.

CIVIL ACTION NO. 3:05cv606-TSL-JCS

SPECTRUM HEALTHCARE RESOURCES, INC.

DEFENDANT

**REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

This cause comes before the Court on the Defendant's Motion to Dismiss for Failure to Cooperate in Discovery, or, in the Alternative, to Compel, Extend Scheduling Deadlines and Stay (docket entry number 31), the Plaintiff's Response, and the Defendant's Rebuttal. Having considered the filings, the undersigned recommends that the Motion to Dismiss be denied, but recommends that the Motion to Compel be granted, that the Scheduling Deadlines be extended, and that trial be continued to the next available trial setting before Hon. Tom S. Lee, District Judge. This case demonstrates that despite the good faith efforts by defense counsel, there comes a point when a motion to compel should be filed to obtain discovery. Because the Plaintiff has plainly failed to cooperate in discovery, the Court hereby orders the following:

1. The Plaintiff is hereby ordered to answer all discovery requests by Defendant by January 23, 2007.
2. The parties are instructed to hold the requested depositions the week of January 29, 2007, at a mutually agreeable time. Should the Plaintiff refuse to cooperate, the Defendant shall notify the Court, and the Court will set a time and date for the depositions.
3. The Court hereby orders that the parties schedule the subject Rule 30(b)(6) deposition during the week of February 5, 2007. Likewise, should the Plaintiff refuse to cooperate, the

Defendant shall notify the Court, and the Court will set a time and date for the deposition.

4. Compliance with the discovery requests includes, but is not limited to, providing medical releases and other requested information.

5. Costs of filing this motion will be assessed to the Plaintiff.

The Settlement Conference set before the undersigned on January 22, 2007, at 1:30 p.m. will be held and will go forward as previously planned.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within ten (10) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636, Douglass v. United Services Automobile Association, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

RESPECTFULLY SUBMITTED, this the 17 day of January, 2007.

S/James C. Sumner

UNITED STATES MAGISTRATE JUDGE